



**APPENDIX NO. 1.**

In the  
United States Circuit Court of Appeals  
For the Seventh Circuit.

No. 8275.

October Term and Session, 1943.

National Labor Relations Board,	}	Petition for Enforcement of an Order of the National Labor Re- lations Board.
Petitioner,		
vs.		
Jasper Chair Company, a Cor- poration,		
Respondent.		

November 6, 1943.

Before Kerner and Minton, Circuit Judges, and Lindley,  
District Judge.

Kerner, Circuit Judge. The Board found that the respondent had been and was engaged in unfair labor practices affecting commerce within the meaning of § 2 (6) and (7) of the National Labor Relations Act, 29 U. S. C. A. § 152 (6), (7), in discriminatorily discharging Leo Lannan, an employee, and in interfering with the rights of its employees guaranteed them under § 7 of the Act, § 157—thus violating § 8 (1) and (3) of the Act, § 158 (1), (3).

Respondent, an Indiana corporation, manufactures office and school chairs at its plant in Jasper, Indiana, where it employs about 128 production workers. No jurisdictional question is presented.

Respondent resists the Board's order that it cease and desist from the unfair labor practices found, reinstate Lannan with back pay, and post appropriate notices, on the ground (1) that the Board never found the facts upon which the order is based, independently, and if it did, (2) that the findings of facts are not supported by substantial evidence.

First: The point is made that under Section 10 (c) of the Act, § 160 (c), it is mandatory on the Board to make its own findings. That section provides that "If upon all the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any \* \* \* unfair labor practice, then the Board shall state its findings of fact \* \* \*." Attention is also called to Section 37 of Art. II of the Board's Rules and Regulations, Series 2, as amended, which provides that "After a hearing for the purpose of taking evidence \* \* \* the Board may—(a) direct that the Trial Examiner prepare an Intermediate Report \* \* \*; or (c) issue proposed findings of fact, proposed conclusions of law, and proposed order." It is then argued that because the Board in its decision and order states that the Board "hereby adopts the findings, conclusions, and recommendations of the Trial Examiner," it made no determination of the ultimate facts; consequently, no valid order could issue against the respondent. With this argument, under the state of the record here appearing, we are unable to agree.

It is true that by the provisions of the Act the Board is required to make a finding of the ultimate facts upon which the order is bottomed, and in forming its decision and order it must consider all the evidence.

In this case, pursuant to Section 10 (b) of the Act, § 160 (b), the Board designated a trial examiner to hear the cause. He heard and considered all the evidence and issued his "Intermediate Report" in which he made elaborate separate specific findings of facts, to the effect that

the respondent was engaged in certain unfair labor practices. To this report respondent filed exceptions. Thereafter the Board, after considering "the entire record in the case," adopted the findings of the trial examiner.

With respect to the unfair labor practices, the findings were that in August, 1941, respondent's employees had formed a local union, held regular meetings, and were soliciting membership therein. To these activities, and to prevent solicitation of its employees, respondent's superintendent and foreman indicated hostility by the interrogation of employees and by threats and intimidatory remarks and surveillance of union meetings. Statements of the superintendent and the foreman indicating their dislike and opposition to the union were quoted in the findings. The findings also set forth the circumstances of the discharge of Lannan and concluded that his discharge was because of his adherence to the union.

We observe that no special form or style in which the findings shall be cast is prescribed in the Act or in the Board's rules, and we have been told that it is not our function "to probe the mental processes" underlying the Board's decision. *Morgan v. United States*, 304 U. S. 1, 18. So, where the Board declares that it has considered "the entire record in the case," it cannot be said that the Board did not consider the evidence, and we must accord its decision the presumption of regularity to which it is entitled, *Morgan v. United States*, 298 U. S. 468, and *Inland Steel Co. v. National Labor Relations Board*, 105 F. 2d 246. Perhaps the better practice would be to have the Board enumerate independently its findings of the ultimate facts. However, so long as it makes an independent determination of the issues and satisfies the due process requirements, we cannot say that the particular procedure adopted by the Board in stating its findings of fact, in this case, made the decision and order invalid.

Second: On the question of substantial evidence, we are of the opinion that from the entire record the order of the Board is supported, *H. J. Heinz Co. v. National Labor Relations Board*, 311 U. S. 514; *Rapid Roller Co. v. National Labor Relations Board*, 126 F. 2d 452; *National Labor Relations Board v. Nevada Consolidated Copper Corp.*, 316 U. S. 105; *National Labor Relations Board v. Chicago Apparatus Co.*, 116 F. 2d 753, and the order is valid, *National Labor Relations Board v. Express Publishing Co.*, 312 U. S. 426; *Wilson & Co. v. National Labor Relations Board*, 124 F. 2d 845, except as noted below.

The order of the Board will be enforced, but with the modification that the words "successors, and assigns" in the preamble shall be stricken; there will be inserted in paragraph 1 (a) after the word "employees" the words "of their own choosing"; and in subsection 3 of paragraph 2 (c) after the word "Organizations," the words "or any other organization of their own choosing."

It Is So Ordered.

A true Copy:

Teste:

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Clerk of the United States Circuit Court  
of Appeals for the Seventh Circuit.

**APPENDIX NO. 2.**

In the United States Circuit Court of Appeals  
For the Seventh Circuit.

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No. 8275.

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October Term and Session, 1943.

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National Labor Relations Board, Petitioner,

v.

Jasper Chair Company, a Corporation, Respondent.

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On Petition for Enforcement of an Order of the  
National Labor Relations Board.

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**DECREE.**

This cause coming on to be heard upon petition of the National Labor Relations Board for enforcement of an order issued by it against Jasper Chair Company, a corporation, dated December 31, 1942, and the Court on November 6, 1943, having rendered its opinion with respect thereto, accordingly, in conformity therewith

It Is Hereby Ordered, Adjudged and Decreed that Jasper Chair Company, Jasper, Indiana, and its officers and agents, shall:

1. Cease and desist from:

(a) Discouraging membership in the United Furniture Workers of America, Local No. 331, affiliated with the

Congress of Industrial Organizations, or any other labor organization of its employees, of their own choosing, by discharging any of its employees or in any other manner discriminating in regard to the hire or tenure of employment, or any term of condition of employment of its employees;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining and other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Offer to Leo Lannan immediate and full reinstatement to his former or substantially equivalent position, without prejudice to his seniority and other rights and privileges;

(b) Make whole Leo Lannan for any loss or pay he may have suffered by reason of the respondent's discrimination against him, by payment to him of a sum of money equal to that which he normally would have earned as wages from February 17, 1942, to the date of the respondent's offer of reinstatement, less his net earnings, if any, during said period;

(c) Post immediately in conspicuous places throughout its Jasper, Indiana, plant and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating (1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1 (a) and (b) of this Decree; (2) that the respondent will take the affirmative

action set forth in paragraphs 2 (a) and (b) of this Decree; and (3) that the respondent's employees are free to become or remain members of United Furniture Workers of America, Local No. 331, affiliated with the Congress of Industrial Organizations, or any other organization of their own choosing, and that the respondent will not discriminate against any employee because of membership in or activity on behalf of that organization;

(d) Notify the Regional Director of the Fourteenth Region in writing, within ten (10) days from the date of this Decree what steps the respondent has taken to comply herewith.

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Judge, United States Circuit Court of  
Appeals for the Seventh Circuit.

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